

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 18-00134-01-CR-W-GAF
)	
vs.)	
)	
RENE LUGO-BARCENAS,)	
)	
Defendant.)	

MOTION FOR CONTINUANCE WITH SUGGESTIONS

COMES NOW Defendant Rene Lugo-Barcenas, by and through CJA appointed counsel David H. Johnson, in accordance with Rule 47, Fed. R. Crim. P., and Rule 7.1 (b) and (c) of the Local Rules of Procedure for the United States District Court for the Western District of Missouri, and hereby moves the Court pursuant to 18 U.S.C. §3161(h)(8)(A) and (B) to remove this case from the Accelerated Joint Criminal Trial Docket scheduled to commence June 1, 2020, and to continue the case to the Accelerated Joint Criminal Trial Docket scheduled to commence September 14, 2020.

SUGGESTIONS IN SUPPORT OF MOTION FOR CONTINUANCE

1. On May 2, 2018 Defendants Rene Lugo-Barcenas and Wendy Valdivieso-Serrano made their initial appearances before Magistrate Sarah W. Hays on Complaint filed by the Government on the same day. On June 25, 2018 both Defendants were arraigned on the two count Indictment returned on May 23, 2018. Case was set for trial commencing August 20, 2018.
2. On July 16, 2018 the Court continued the trial of the case to December 3, 2018. Docket # 38.
3. On November 14, 2018, a Superseding Indictment was returned, adding 15 additional

defendants, in a nine (9) count Indictment.

4. By reason of the thirty (30) day period between indictment and trial, the trial date for defendants Lugo-Barcenas and Valdivieso-Serrano was reset from the December 3, 2018 docket to the docket commencing January 7, 2019.

5. The Superseding Indictment charges the defendants in Count One with conspiracy to distribute 500 grams or more of a substance containing methamphetamine, in violation of 21U.S.C. §§ 841(a)(1), (b)(1)(A) and 846, between January 1, 2016 and November 13, 2018.

6. Counts Two, Three, Six and Seven charge various defendants with additional charges of possession of controlled substances with intent to distribute, and Counts Four and Eight charge various defendants with Possession of a firearm in furtherance of a drug trafficking crime, and Counts Five and Nine charge various defendants with Felon in Possession of a firearm.

7. The Government through A.U.S.A. Patrick Edwards advised the undersigned that the Government does not oppose this request for continuance.

8. Counsel for co-Defendants were contacted by undersigned counsel and counsel stated that their respective clients, co-Defendants in this case, do not oppose this request for continuance, with the exception of:

Wendy Valcivieso-Serrano (2); Rosa Rivera-Chavez (6); George D. Williamson (13); and Arthur D. Barrett.

9. Given the General Order of the Court as Modified April 20, 2020, addressing the public health concerns, and court procedures adopted in support of public health safety by reason of the Covid-19 pandemic; the present status of the public health procedures and societal implications thereof; and the medical science suggesting potential public health necessity of some societal distancing protocols into the summer of 2020, a continuance of this case from the docket

commencing June 1, 2020 is more likely than not in the best interest of public health and safety in the light of the Covid-19 virus pandemic.

10. The Government and defense counsel for the defendants who have consented to this Motion for Continuance agree that a setting on the Accelerated Joint Criminal Jury Trial Docket scheduled to commence September 14, 2020 is appropriate and given the science available at this time should provide sufficient time for social distancing and other public health procedures to loosen sufficient for populating courtroom, jury box, and jury deliberation, as well as health concerns of courthouse and courtroom personnel, defendants, witnesses, and counsel for the respective parties.

11. This continuance is not sought for dilatory delay, but is sought so that the Defendants may be afforded due process of law under the Fifth Amendment to the United States Constitution. Pursuant to 18 U.S.C. §3161(h)(8)(A) and (B)(iv), Defendant suggests to the Court that the above-stated reasons for a continuance outweigh the best interests of the public and the Defendants to a speedy trial, which is required by 18 U.S.C. §3161(c)(1).

12. This continuance is also sought in order to provide maximum health and safety for the person of each individual defendant in this matter taking into consideration the public health concerns occasioned by the Covid-19 pandemic.

13. Under the provisions of 18 U.S.C. §3161(h)(8)(A) the period of time until the next criminal trial docket should be excluded in computing the period of time in which the Defendants should be brought to trial under the provisions of the Speedy Trial Act.

WHEREFORE, Defendant Rene Lugo-Barcenas, individually, and on behalf of all Defendants similarly situated, prays this Court to remove this case from the Accelerated Joint Criminal Trial Docket scheduled to commence June 1, 2020 and to continue the case until the Accelerated Joint Criminal Trial Docket scheduled to commence September 14, 2020.

**THE HEARTLAND GROUP
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was transmitted by ECF to all defense counsel and the Government concurrent with ECF filing of this motion, and a copy mailed to defendant Rene Lugo-Barcenas in care of the facility under the control or contracted by the United States Marshal in which Mr. Lugo-Barcenas is held pending trial.

/s/ David H. Johnson